

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 632 of 2021**

- Randhir Pandey S/o Late Shri Lokhnath Pandey Aged About 46 Years R/o Pump House Colony, Police Station- Rampur, Civil And Revenue District - Korba (Chhattisgarh)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Manendragarh, District Koriya (Chhattisgarh), District : Koriya (Baikunthpur), Chhattisgarh

---- Respondent

For Applicant : Shri Shashank Thakur and Shri Ashutosh Pandey,
Advocates

For State : Shri Mateen Siddiqui, Dy.A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****02/06/2021**

Heard.

1. The applicant has been arrested in connection with Crime No.230/2020 registered at Police Station – Manendragarh, District – Koriya (C.G.) for alleged commission of offences under Section 409, 420 r/w 34 and 120-B of IPC.

2. Prosecution case is that present applicant and other co-accused who are Directors of a private limited company cheated the complainant and induced him to pay Rs.3,86,31,000/- towards assured supply of 25000 numbers of set top box. However, thereafter, the applicants and other accused only supplied 12000 number of set top boxes valuing at 1,84,20,000/-. The balance quantity of 13,000 set top boxes were not supplied even though advance payment was received by the applicant and other Directors of the company despite repeated requirements made. When finally balance amount was neither repaid nor supply has been made, the complainant lodged report treating criminal breach of trust.

3. Learned counsel for the applicant would submit that in the present case, FIR

itself shows that the alleged transaction was entered into on 01/01/2015 for supply of set top boxes. But at that time, the applicant was not one of the Directors of the company as the applicant was induced as Director of the company only on 31/03/2016. He would further submit that present is a case of business transaction without there being any intention to cheat or commit criminal breach of trust. The FIR was lodged as late as on 06/07/2020 and therefore, even if it is a case of failure on the part of the company of which, the applicant is one of the directors had only a cause to raise a civil cause of action without any element of criminality. He would also submit that the period during which the transaction is said to have been taken between the parties as per the FIR is from 01/01/2015 to 03/06/2018 but FIR was lodged after about two years. The complainant has constituted another business firm along with the co-accused Jaipal Singh Gulati on 16/04/2019 which only shows that the FIR has been lodged only to settle the civil dispute between the parties as arm twisting device. Lastly, it is submitted that in the present case, as far as the applicant is concerned, he has been arrested on 12/10/2020, investigation is complete, charge sheet has been filed and there is no likelihood of early conclusion of trial because except the present applicant, all other accused till date, have not been arrested and said to be absconding. Therefore, prayer has been made that appropriate conditions may be imposed to ensure his presence during trial.

4. On the other hand, learned State counsel opposes prayer and submits that present is a case of cheating and criminal breach of trust. He would submit that on the false assurance of supply of 25,000 numbers of set top box, huge payment of Rs.3,86,31,000/- was made to the supplier, the company of which, the applicant is one of the Directors but later on, only 12,000 set top boxes were supplied and remaining supply was not made nor balance amount returned which *prima facie* make out a case of cheating. He would submit that the FIR and the statement of the witnesses would show that though applicant was formally induced as Directors of the company, later, right from the beginning, along with the co-accused Jaipal Singh, applicant was involved in deals towards supply of 25000 number of set top boxes. He further submits that subsequent agreement between the complainant and co-accused on 16/04/2019 is in relation with another transaction and has nothing to do with the supply of 25000 number of set top boxes to the complainant. Lastly, he would submit that the other co-accused are absconding and if the applicant is granted bail, he is likely to tamper with the prosecution witnesses.

5. On *prima facie* considerations, the FIR shows that the business deal between private limited company and the complainant was entered into on 01/01/2015. Payment of Rs.3,86,31,000/- are said to have been made out of which, 12000

numbers of set top boxes worth Rs.1,84,20,000/- were supplied. The period of transaction between the parties is said to be from 01/01/2015 to 03/06/2015. The FIR, however, was lodged on 06/07/2020. Moreover, it is found that the applicant has come with the case that he was induced as one of the Directors of the company of 31/03/2018 whereas business deal was settled on 01/01/2015. This Court also found that later on, complainant had entered into another business deal by executing agreement between him and other persons including co-accused Jaipal Singh, on 16/04/2019. Therefore, taking into consideration totality of the circumstances, nature of allegations, material collected against the applicant, particularly considering that the applicant is in jail since 13/10/2020, investigation is complete, charge sheet has been filed and that there is no progress in the trial, many other accused are still absconding, trial is not likely to conclude early, present is a fit case for grant of bail with appropriate conditions.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- along with two local sureties for the like amount to the satisfaction of the Trial Court on the condition that -

- a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) He shall not make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
 Vacation Judge